

THE CITY OF NEW YORK

LAW DEPARTMENT

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Corporation Counsel

USDS SDNY

DOCUMENT

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April 14, 2008

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MM

Via Facsimile (212) 805-7901

The Honorable Harold Baer, Jr.
 United States District Judge
 United States Courthouse
 500 Pearl Street, Room 2230
 New York, New York 10007

Re: Marc Curtis v. City of New York
 08 CV 2795 (HB)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendant City of New York.¹ I am writing with respect to the above-referenced matter in which plaintiff alleges that defendants violated plaintiff's rights when he was subjected to an unlawful search and ~~falsely arrested; a claim for malicious prosecution is also asserted. Defendant City respectfully requests an extension of its time to answer or otherwise respond to this complaint from April 15, 2008 to June 16, 2008. It is further requested that the initial pre-trial conference, scheduled for May 22, 2008 at 3:15 be adjourned June 16, 2008, or a date thereafter.~~ We have endeavored to obtain the consent of plaintiff's counsel, Gary Maitland, but have been unable to speak with him.

¹ Upon information and belief, the named individual defendant has not yet been served in this matter. Therefore, should the Court grant this enlargement, it should allow plaintiff time to serve the individual defendant. If timely served, it may also give this office time to determine, pursuant to Section 50-k of the New York General Municipal law, and based upon a review of the facts of the case, whether we may represent him. See *Mercurio v. The City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

There are several reasons for seeking an enlargement of time. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint. Also, as plaintiff alleges physical and psychological injury, this office is in the process of forwarding for execution a consent and authorization for the release of medical records, limited, at this juncture, to medical records concerning treatment received as a result of the alleged incident so that defendant City can obtain the information, properly assess the case, and respond to this complaint.

No previous request for an extension has been made. Accordingly, defendant City respectfully requests an extension of its time to answer or otherwise respond to this complaint from April 15, 2008 to June 16, 2008, and that the initial pre-trial conference, scheduled for May 22, 2008 at 3:15 be adjourned June 16, 2008, or a date thereafter.

Respectfully submitted,

Joyce Campbell Privéterre
Joyce Campbell Privéterre (JCP 1846)
Assistant Corporation Counsel

Adjourned June 26, 08 at 2:30 PM
you should have sought records
immediately not a month or more
After the complaint was served
Further if the records are not produced
Within 30 days from today April 17, 08
Call chambers after you send out what
excuse there is if any.

SO ORDERED:

Harold Baer

Harold Baer, Jr., U.S.D.J.

4/17/08

Cc:

Via Facsimile

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Endorsement:

Adjourned June 26, 2008 at 2:30 P.M. you should have sought records immediately not a month or more after the complaint was served. Further if the records are not produced within 30 days from today April 17, 2008 call Chambers after you find out what excuse there is if any.